



Excise Tax Advisory

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TAXABILITY OF THE MANUFACTURE OF "REFINERY GAS"

Issued July 31, 1974

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Is refinery gas, created as a result of refining oil, a byproduct within the meaning of RCW 82.04.210 such that its production is subject to the business and occupation tax?

RCW 82.04.240 imposes a business and occupation tax

Upon every person (with certain exceptions not here relevant) engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured, multiplied by the rate of forty-four one-hundredths of one percent. (Emphasis supplied)

RCW 82.04.210 defines a "byproduct" as being

. . . any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities.

RCW 82.04.450 explains the method of determining the value of a product.

The value of products, including byproducts, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof . . . except:

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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- (1) Where such products, including byproducts, are extracted or manufactured for commercial or industrial use;
- (2) In the above cases the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, . . . The Board of Tax Appeals has held refinery gas to be a byproduct within the meaning of RCW 82.04.210 and thus, subject to the manufacturing business and occupation tax. Its taxable value is determined by the price of natural gas used for similar purposes, taking into consideration the quality differences between natural gas and refinery gas. This is in accordance with RCW 82.04.450(1). Texaco, Inc. v. Department of Revenue, Docket 70-4.